IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.MC.No. 2014 of 2007()

(AGAINST THE ORDER IN C.M.P.NO.390/2007 IN S.T.NO.4744/2006 OF JUDICIAL FIRST CLASS MAGISTRATE (MOBILE COURT) TRIVANDRUM.

PETITIONER: ACCUSED

DR.T.R.JOEL,JOEL HOSPITAL,
CHITTUMALA, NEAR BLOCK OFFICE,
EAST KALLAD (P.O.)KOLLAM

BY ADV. SRI.N.HARI KUMAR

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REP.BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA.

2. K.JAYACHANDRAN,SREEKRISHNA VILASOM, KARIYIL,KAZHAKKUTTAM,THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB FOR R2
ADV.SMT.BINDU SASTHAMANGALAM FOR R1

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No.2014 Of 2007

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Dated this the 10th day of July, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instrument Act. The matter has reached the final stages of trial. At this stage, the petitioner wanted the complainant to be recalled for further cross examination. The opportunity to cross-examine the complainant was already granted and availed. According to the petitioner, there was change in counsel and the counsel who is now appearing wants the complainant to be further cross-examined. The petition under Section 311 Cr.P.C was dismissed. The petitioner claims to be aggrieved by the said order.

2. The learned counsel for the complainant submits that there is absolutely no bona fides in the application for permission to recall the complainant. The complaint was filed as early as in 2001 and the matter has been dragging on for the past about 6 years unnecessarily. The request now made is only an attempt to protract the proceedings. In these circumstances, the petition may not be allowed. If it were to be allowed, appropriate conditions may be imposed., submits the learned counsel for the complainant. There may be a direction to the

learned Magistrate to dispose of the case within a specified time frame, prays the counsel.

3. I do not find merit in the prayer for a further opportunity to cross-examine the complainant. However, I am satisfied that, to see the end of the case a further opportunity can be given to the petitioner on condition that he deposits Rupees One thousand as cost to the complainant on the next date of posting. If such deposit/payment is made on the next date of posting, the petitioner shall be given opportunity to cross examine the complainant. The learned Magistrate shall ensure that the prosecution under Sect.138 of the N.I.Act is disposed of as expeditiously as possible, at any rate, within a period of 15 days from the next date of posting.

Hand over copy to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE